



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 10, 1997

Ms. J. Renee Vaughn
Associate General Counsel
Texas Tech University
Office of Vice President and General Counsel
P.O. Box 42021
Lubbock, Texas 79409-2021

OR97-0308

Dear Ms. Vaughn:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 103687.

Texas Tech University (the "university") received an open records request from a student organization for records pertaining to, among other things, "the proposal to shut down, reclassify, or alter the future of the Department of Engineering Technology."¹ You have submitted to this office as responsive to the request two memoranda prepared by the Dean of Engineering, which you contend are excepted from public disclosure pursuant to section 552.111 of the Government Code.²

¹The open records request also seeks records pertaining to the "financial status" of the College of Engineering, including a budget for the last five years. Because you do not argue that these particular records are excepted from required public disclosure, we assume the university has made these records available to the requestors. If it has not, these records must be released at this time.

²The requestors contend that they have a special right of access to the information pursuant to section 552.023 of the Government Code. Section 552.023 provides to an individual a special right of access to information that is otherwise excepted from public disclosure by laws intended to protect that individual's privacy interests. Because no issue of privacy is implicated by the current request, section 552.023 is inapplicable here.

Section 552.111 of the Government Code excepts interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policymaking process. Open Records Decision No. 615 (1993) at 5. The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added). In Open Records Decision No. 615 (1993) at 5, this office held that

to come within the [section 552.111] exception, information must be related to the *policymaking* functions of the governmental body. An agency's policymaking functions do not encompass routine internal administrative and personnel matters [Emphasis in original.]

Section 552.111 does not protect facts and written observation of facts and events that are severable from advice, opinions, and recommendation. Open Records Decision No. 615 at 5. If, however, the factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make separation of the factual data impractical, that information may be withheld. Open Records Decision No. 313 (1982). We have marked those portions of the two memoranda that the university may withhold pursuant to section 552.111. The remaining portions of these documents must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Hamilton Guajardo". The signature is fluid and cursive, with the first name "Kay" being particularly prominent.

Kay Hamilton Guajardo
Assistant Attorney General
Open Records Division

KHG/RWP/rho

Ref.: ID# 103687

Enclosures: Marked documents

cc: Officers of the Society of Engineering Technologists
c/o Department of Engineering Technology
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(w/o enclosures)